

1 THE HONORABLE THOMAS S. ZILLY

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 GORDON SCOTT STROH,

11 Plaintiff,

12 v.

13 SATURNA CAPITAL CORPORATION,
14 NICHOLAS KAISER and JANE CARTEN,

15 Defendants.

Case No. 2:16-cv-00283-TSZ

PRETRIAL ORDER

16 **Federal Jurisdiction**

17 There is federal jurisdiction in this case because Plaintiff is pursuing two federal
18 statutory claims that have survived motions to dismiss: Plaintiff's Sarbanes-Oxley claim under
19 18 U.S.C. § 1514A and his Dodd-Frank claim under 15 U.S.C. § 78u-6.

20 The Court has subject matter jurisdiction pursuant to 18 U.S.C. § 1514A(b)(1)(B), 15
21 U.S.C. § 7202(b)(1), 15 U.S.C. § 78u-6(h)(1)(B)(i), 15 U.S.C. § 78aa, and 28 U.S.C. § 1331.

22 Venue is proper under 28 U.S.C. § 1391(c) (1) and (2) because the individual
23 defendants are domiciled in Bellingham, Washington and the corporate defendant maintains its
24 principal place of business in Bellingham.

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27 PRETRIAL ORDER - 1
CASE NO. 2:16-cv-00283-TSZ

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Claims for Relief

Plaintiff characterizes the claims that he will pursue at trial as follows:

1. Plaintiff will pursue Sarbanes-Oxley and Dodd-Frank claims against all three defendants. Plaintiff will seek damages based on lost compensation – back pay and double back pay between his termination and the trial plus front or future pay over the years his whistleblower status will impede his opportunity to gain equivalent employment.

2. Both of Plaintiff's claims are predicated on the same facts. Defendant Kaiser imposed a poor "culture of compliance" or "tone at the top," as the SEC describes management's attitude toward adhering to securities regulations. There are salient examples. Kaiser mocked proposals by a compliance and risk management consultant. When Kaiser perceived a conflict between securities regulations, he threatened not to comply with either. Kaiser responded angrily to advice from Stroh about employee disciplinary disclosure requirements and compliance with new SEC "pay to play" requirements, leading to his telling Stroh's compliance team to set aside compliance functions and pursue "loopholes" and "arbitrage schemes" instead.

3. Kaiser created the impression of doing due diligence to comply with AML and SAR duties and avoid facilitating terrorist financing but in reality prioritized business development. For example, Kaiser convened a meeting of Saturna's IT staff and directed them to create a computer network on his yacht, in case the FBI confiscated the office computers, in which event the IT staff were not to tell FBI agents about the yacht network. Kaiser threatened to fire the entire IT staff when he learned of their reaction to his directive to lie to the FBI. Kaiser acknowledged that "red flags" appeared in the investigation of a prospective customer's ties to terrorist financing and a U.S. Senate report warned of terrorist financing concerns about a prospective business partner, but Kaiser brushed them aside. Kaiser rejected without even skimming a compliance manual prepared for STC by its president, a veteran trust officer, and then repeatedly ordered the trust officer, Stroh and later a lawyer assisting Stroh to violate

1 attorney rules of professional conduct and state laws regarding authorized practice of law by
2 drafting instruments for customers.

3 4. Under the leadership of Kaiser and Carten, Saturna engaged in a litany of
4 securities regulatory violations from 2011-2014. These included for years failing to file Outside
5 Business Activity reports on companies that Saturna's star business developer, Monem Salam,
6 had failed to disclose and even attempted to conceal. Carten, despite holding a securities
7 industry supervisor's license, as did Monem Salam, had also failed to file outside business
8 activity reports. Kaiser kept excess cash in a mutual fund in violation of SEC Rule 35d-1 (the
9 "names rule") for years in spite of Stroh's repeatedly urging him to rectify it. Kaiser ignored
10 Stroh's advice on investment advisor "best execution" requirements and investment of
11 customer account funds in a manner inconsistent with objectives. When Stroh reported insider
12 trading by an officer of Saturna and consulted outside counsel, Kaiser berated Stroh and
13 directed him to terminate the engagement immediately. Kaiser again harassed Stroh for
14 consulting outside counsel for an affiliated mutual fund regarding prospectus disclosure of
15 minimum purchase waivers.

16 5. When he determined that Saturna was violating securities regulations, Stroh
17 advised Kaiser and Carten to take corrective action. Defendants often followed Stroh's advice,
18 but in the process Kaiser usually attacked Stroh's competency, belittled him, threatened Stroh
19 with loss of his job on occasion and continued to harass Stroh. Kaiser was particularly
20 infuriated by Stroh's directives to Monem Salam, Saturna's "MVP," regarding repeated
21 compliance problems. Kaiser's retaliation against Stroh culminated shortly after a particularly
22 severe scolding of Monem Salam by Stroh and on the same day Salam was obtaining
23 permission for yet another outside business activity, July 16, 2014.

24 6. On July 15, 2014, Stroh met with Carten, told her how deeply wounded he was
25 by Saturna's refusal to raise his pay for the coming year and that he had other employment
26 options, although he did not. Carten told Stroh to go home and cool off for two days. Stroh had
27 repeatedly expressed concern that he and his team – compliance assistant Jacob Lewis and

1 Saturna Capital Chief Compliance Officer Michael Lewis – were substantially underpaid
2 because of Kaiser’s animosity toward compliance. Stewart had interviewed with Frank Russell
3 and Lewis with the SEC, so Stroh was still pushing for an increase in their compensation as
4 well. After he left the office on July 15, Stroh sought a concerted effort by the three, learned
5 that Lewis had been given a pay raise, and asked Lewis to advocate for Stroh. Lewis did, and
6 Carten softened her stance. She and Stroh then began negotiating a raise for Stroh.

7 7. As the Carten-Stroh negotiation moved toward a midpoint of their respective
8 positions on July 16, but without concluding, Carten invited Stroh to “discuss further” in the
9 morning his ongoing employment at a higher salary or his working on a temporary basis until a
10 replacement could be obtained. Carten did not tell Stroh that two days earlier she had signed an
11 agreement with a recruiter to replace Stroh or that her last offer to Stroh was for an amount that
12 his replacement would earn. Carten then phoned Kaiser for advice. Kaiser seized the
13 opportunity to intercede, and decided that Carten should bring in “an independent counsel to
14 help [her] fire her chief legal officer in the morning.” Carten followed Kaiser’s instructions and
15 had an outside counsel meet Stroh the next morning before he could conclude the negotiation.
16 The outside counsel greeted Stroh with notice that Stroh was no longer employed there because
17 Saturna had accepted his resignation – although Stroh had never tendered it. Stroh begged for
18 his job but was repeatedly rejected by Carten and the outside counsel.

19 8. Plaintiff objects to application of the “after acquired evidence” defense on any
20 basis for the reasons set forth in his Motion in Limine. Plaintiff asserts that he has standing to
21 bring SOX and Dodd-Frank claims despite his role of providing legal and compliance advice.
22 Defendants mischaracterize protected activity by presuming that it is limited to advice relating
23 to “securities fraud” alone; but protected activity clearly includes advice regarding violations of
24 other federal securities statutes as well as regulations promulgated by the SEC and its self-
25 regulatory organizations such as FINRA. Controlling Ninth Circuit authority and rulings in this
26 case on Defendants’ initial motion to dismiss have established Plaintiff’s standing and
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1 application of his claims to SEC regulations beyond fraudulent securities transactions alone.

2
3 **Affirmative Defenses**

4 Defendants dispute the legal and factual characterizations in Paragraphs 1-8 above.

5 **1. Defendants will pursue the following affirmative defenses at trial: Failure to**
6 **State a Claim: SOX, Dodd-Frank, and Wrongful Termination**

7 Mr. Stroh's First Cause of Action for violation of the Sarbanes-Oxley Act's
8 whistleblower retaliation provisions ("SOX claim") and Second Cause of Action for violation
9 of the Dodd-Frank Act's whistleblower retaliation provisions ("Dodd-Frank claim") both
10 require that Mr. Stroh establish that he suffered some form of adverse employment action, and
11 that the adverse employment action was tied in some manner to a protected activity. These
12 claims fail for lack of proof in the following ways:

13 **a. Mr. Stroh Quit and Refused Saturna's Offer to Return.**

14 The evidence will show that Mr. Stroh quit his job and then refused Saturna's offer to
15 return to work. These facts defeat all three of the claims set forth above.

16 **b. Mr. Stroh Did Not Suffer Any Adverse Employment Actions Prior**
17 **to His Departure from Saturna.**

18 Plaintiff has advised that he claims only his alleged termination as an adverse
19 employment action for which any damages are sought. However, to the extent the claims set
20 forth above turn on an alleged adverse employment action purportedly suffered by Mr. Stroh
21 prior to his separation from Saturna, the evidence will show that he did not in fact suffer any
22 actionable adverse employment action.

23 **c. Mr. Stroh's Separation Was Because of Money, Not Protected**
24 **Activities.**

25 The evidence will show that the reason for Mr. Stroh's separation from Saturna –
26 regardless of whether he quit or was terminated – was his desire for additional pay. There was
27 no causal link between any protected activity and the end of Mr. Stroh's employment at
Saturna.

1 **d. Many of Mr. Stroh's Actions Do Not Qualify as Protected Activities**
2 **Under SOX.**

3 Many of Mr. Stroh's allegations regarding Saturna's legal and compliance actions do
4 not relate to alleged violations of the rules and regulations of the SEC in order to support Mr.
5 Stroh's SOX claim, or to his making disclosures that are required or protected under SOX or
6 rules and regulations under the jurisdiction of the SEC, in order to support Mr. Stroh's Dodd-
7 Frank claim.

8 **e. Mr. Stroh's Reports of Compliance Issues are not Protected Activity**
9 **Because they do not Step Outside of his Role as Chief Legal Officer.**

10 Because all of Mr. Stroh's actions in raising compliance issues took place as part and
11 parcel of his job as Chief Legal Officer of Saturna Capital Corporation (or his parallel duties
12 with Saturna's affiliate or subsidiary companies) they do not constitute protected activities.

13 **2. Saturna Would Have Made the Same Decision Absent Mr. Stroh's Protected**
14 **Activities.**

15 Saturna accepted Mr. Stroh's resignation. The evidence will show that it would have
16 made the same decision to allow him to resign even in the absence of any protected activity.
17 This defense defeats Mr. Stroh's claims. As noted above, Plaintiff claims only his alleged
18 termination as an adverse employment action for which any damages are sought.

19 **3. Mr. Stroh's Claims for Damages Are Foreclosed or Limited.**

20 **a. After-Acquired Evidence Cuts Off Any Damage Claim.**

21 After Mr. Stroh left Saturna, the company's investigation into his work history
22 (including a review of the hard drive of his work computer) revealed evidence of gross
23 insubordination, drug and alcohol use impacting his work performance, pornographic materials,
24 and other materials evidencing an egregious lack of respect for and loyalty to his employer.
25 Saturna also discovered that Mr. Stroh had been convicted of a felony forgery charge, which he
26 had never disclosed to the company or to Saturna's regulators. These facts, alone or in
27 combination, are sufficient to defeat Mr. Stroh's claim for damages.

1 **b. Mr. Stroh Failed to Mitigate or Minimize His Damages.**

2 Mr. Stroh remains unemployed today, nearly three years after his resignation from
3 Saturna. The evidence will show that Mr. Stroh rejected Saturna's offer for him to return at a
4 higher base salary and failed to take reasonable efforts to obtain employment, thereby barring
5 or limiting his claims for damages.

6 **Admitted Facts**

7 1. Plaintiff Gordon Scott Stroh ("Stroh"), worked at Saturna Capital Corporation
8 from 2006 to 2014. From August 2011 until July 2014, Stroh served as Chief Legal Officer
9 ("CLO") for Saturna Capital and Saturna Trust Company, Chief Compliance Officer ("CCO")
10 for Saturna Brokerage Services and Anti-Money Laundering ("AML") Officer for Saturna
11 Brokerage Services, Amana Mutual Funds Trust and Saturna Investment Trust.

12 2. Defendant Saturna Capital Corporation ("Saturna") is an investment adviser
13 headquartered in Bellingham, Washington. Saturna carries out certain operations through
14 affiliates, including Saturna Brokerage Services, a securities broker-dealer ("SBS"), Saturna
15 Trust Company ("STC"), Saturna Sendarian Berhad ("SSB"), Amana Mutual Funds Trust
16 ("AMFT") and Saturna Investment Trust ("SIT").

17 3. Defendant Nicholas Kaiser ("Kaiser") is the founder of Saturna and Chairman
18 of the Board of Directors. Defendant Jane Carten ("Carten"), is Saturna's President and a
19 director of Saturna and several of its affiliates. Carten is Kaiser's daughter.

20 4. Saturna hired Stroh in 2006.

21 5. Stroh's employment at Saturna ended in July 2014.

22 **Issues of Law**

23 The following are the issues of law to be determined by the court (in addition to those
24 issues raised in the parties' respective Motions in Limine):

25 1. Does Plaintiff have standing to pursue SOX and Dodd-Frank claims when his
26 job included providing legal and compliance advice regarding securities regulations?
27

2. What are the elements and burden of proof of Plaintiff's SOX and Dodd-Frank claims? Which, if any, of those elements fail as a matter of law?

3. What are the elements and burden of proof of any defense(s) to those claims?

Which, if any, of those elements fail as a matter of law?

4. Must Mr. Stroh's damages be reduced or eliminated as a matter of law?

Plaintiffs' Witnesses¹

Kenneth R. Cain. 8896 River Pine Drive, Cordova, TN, 38016. Mr. Cain will testify by pre-recorded, videotaped deposition from the Memphis, Tennessee area. Plaintiff will start the video deposition at the point shown on the transcript as 6:25, the beginning of direct examination, and conclude at 80:11, the conclusion of cross examination. This testimony runs for about an hour.

Prior to Plaintiff's decision to dismiss his state-law claims, Defendants identified the transcript sections to which they object, and the parties have conferred regarding these designations. Plaintiff has agreed to remove certain designations based on those objections and Defendant has withdrawn certain objections. Plaintiff disputes Defendants' remaining objections. A copy of the transcript shows in yellow highlighting the sections that Plaintiff intends to offer at trial with Defendants' remaining objections in red text and Plaintiff's responses correlating to those objections inserted in green boxes. The highlighted transcript of Ken Cain's video testimony is in attached Addendum A.

Mr. Cain, was the president of Saturna Trust Company from its inception in Reno, Nevada, around early 2009 until his retirement in early 2014. He will testify about Kaiser's creation of an atmosphere in which employment was precarious, how STC was established and run, Monem Salam's favor with Kaiser, business development trips Cain made with Monem Salam to mosques around the country, Kaiser's disregard of Cain's compliance efforts and

¹ All witness descriptions are characterized by the party offering that witness and are subject to the Court's rulings on the parties' motions in limine.

1 pressure by Kaiser to have Saturna counsel violate RPCs by drafting customer trust
2 instruments.

3 **Defendant Jane Carten.** C/o counsel for defendants. Rather than submit excerpts
4 from Carten's individual/Saturna Rule 30(b)(6) deposition, Plaintiff will call Carten as a
5 witness in his case to establish facts adverse to Defendants through live witness testimony
6 directly from a Defendant. Carten will be asked about her dealings with Plaintiff, outside
7 business activity reports, Monem Salam, statements by Kaiser about "loopholes and arbitrage
8 schemes," Kaiser's IT staff meeting about FBI agents and a computer system on his yacht and
9 her follow up meeting with Kaiser, Kaiser's yelling at Winship and Stroh and Tom Phillips'
10 frustration with Kaiser before resigning, Kaiser's repeated reduction of compensation Carten
11 was proposing for Stroh and the circumstances leading up to and including Stroh's termination.

12 **Plaintiff's Expert Mary Curran.** 875 Hilldale Avenue, Berkeley, CA 94708. Curran
13 will be asked about her credentials and opinions in her expert witness report, including subjects
14 described herein regarding the testimony of Defendants Carten and Kaiser. Curran may be
15 asked to comment on the report or testimony of Defendants' expert Sara Andres.

16 **Defendant Nicholas Kaiser.** C/o counsel for Defendants. Plaintiff will call Kaiser as
17 a witness in Plaintiff's case to establish facts adverse to Defendants through live witness
18 testimony directly from a Defendant rather than through deposition excerpts. Kaiser will be
19 asked about Saturna's "culture of compliance" or "tone at the top," undue influence of Saturna
20 CCOs in reports to fund directors, his dealings with Saturna's CLOs, statements about
21 "loopholes and arbitrage schemes," his IT staff meeting about FBI agents and a computer
22 system on his yacht, AML issues, "red flags" and investigation of terrorist finance concerns to
23 vet customers and business partners, Monem Salam, OBA reports, "names rule" compliance,
24 disclosure of minimum investment waivers in prospectuses, Stroh's consultation of outside
25 counsel regarding those issues and insider trading, Stroh's refusal of Kaiser's directives to draft
26 customer trust instruments in violation of RPCs, harassment of Stroh, repeated reduction of
27

1 compensation Carten was proposing for Stroh and the circumstances leading up to and
2 including Stroh's termination.

3 **Paul Meeks.** 606 Clark Road, Bellingham, WA, 98225. Paul Meeks will testify about
4 his inducement to leave a prestigious Merrill Lynch portfolio manager position in the East to
5 become a portfolio manager and media spokesperson at Saturna in 2012, with the
6 understanding that he would replace Kaiser, who was to retire in a few years. Meeks heard
7 Kaiser browbeating Stroh on a number of occasions. Kaiser's management of some accounts
8 did not comply with investment objectives; Kaiser's habitual edits of fund prospectuses could
9 alter the fund theme; Kaiser appeared to be managing some funds to suit his personal objectives
10 and did not take "best execution" duties seriously; Kaiser prevented Meeks from discussing
11 fund management directly with the board of directors, and Kaiser did not want any criticism of
12 management in writing. Monem Salam was an aggressive salesperson, whose questionable
13 conduct was ignored by Carten and Kaiser. Carten engaged in fund management that was
14 impermissible. Kaiser improperly influenced employees' use of the stock buyback program.
15 Kaiser and Carten imposed Meeks' resignation after Meeks saw that Kaiser was not retiring as
16 represented and Kaiser learned that Meeks had made inquiries about other job opportunities.

17 **Plaintiff's Damages Expert Mark Newton.** 1325 Fourth Avenue, Suite 1705, Seattle,
18 WA, 98101. Newton will quantify damages sustained by Stroh as described in Newton's
19 supplemental expert witness report, which updated his calculations as of January 25, 2017 to
20 the estimated conclusion of trial, June 30, 2017. This will include an offset for mitigation
21 through alternative employment. Newton may be asked to comment on the report or testimony
22 of Defendants' damages expert, Robert Wagner.

23 **Plaintiff, Gordon Scott Stroh** (c/o Lane Powell PC) – will testify in detail on the facts
24 supporting the claims Plaintiff will pursue at trial, per his deposition and declaration testimony
25 and as summarized in the claims for relief recapped above.

Defendant's Witnesses

A. Non-Expert Witnesses

1. **Nicholas F. Kaiser** will testify live. Mr. Kaiser is Saturna's founder, Chairman, and Director. The general nature of his testimony will be Saturna's history and operations; Mr. Stroh's work at Saturna; Saturna management's interactions with Mr. Stroh and other members of Saturna's legal and compliance team; compliance issues (to the extent Mr. Stroh is allowed to present such evidence); Mr. Stroh's resignation from Saturna; and the effect of after-acquired evidence.²

2. **Jane K. Carten** will testify live. Ms. Carten is Saturna's President and Director. The general nature of her testimony will be Saturna's history and operations; Mr. Stroh's work at Saturna; Saturna management's interactions with Mr. Stroh and other members of Saturna's legal and compliance team; compliance issues (to the extent Mr. Stroh is allowed to present such evidence); Mr. Stroh's resignation from Saturna; and the effect of after-acquired evidence.

3. **Michael E. Lewis** will testify live. Mr. Lewis is the Chief Compliance Officer at Saturna. The general nature of his testimony will be Mr. Stroh's work at Saturna; Saturna management's interactions with Mr. Stroh and other members of Saturna's legal and compliance team; compliance issues (to the extent Mr. Stroh is allowed to present such evidence); Mr. Stroh's resignation from Saturna; and matters as to which Paul Meeks may testify and/or Mr. Meek's reliability as a witness.

4. **Jacob A. Stewart** will testify live. Mr. Stewart is the Anti-Money Laundering Officer at Saturna. The general nature of his testimony will be Mr. Stroh's work at Saturna; Saturna management's interactions with Mr. Stroh and other members of Saturna's legal and compliance team; compliance issues (to the extent Mr. Stroh is allowed to present such evidence); and Mr. Stroh's resignation from Saturna.

² Mr. Stroh has indicated that he intends to call Mr. Kaiser, Ms. Carten, Mr. Cain, and himself in his case in chief. Defendants request that full direct examination of those individuals be permitted at that time, to avoid burdening the court, the witnesses, and the jury with unnecessary or duplicative testimony. Mr. Stroh does not object.

1 **5. Adam Engst** may testify live. Mr. Engst is an attorney at GLP Attorneys and
2 was formerly Associate Counsel at Saturna. The general nature of his testimony will be Mr.
3 Stroh's work at Saturna; Saturna management's interactions with Mr. Stroh and other members
4 of Saturna's legal and compliance team; compliance issues (to the extent Mr. Stroh is allowed
5 to present such evidence); and Mr. Stroh's resignation from Saturna.

6 **6. Christopher R. Fankhauser** may testify live. Mr. Fankhauser is Chief
7 Operating Officer at Saturna. The general nature of his testimony will be Mr. Stroh's work at
8 Saturna; Saturna management's interactions with Mr. Stroh and other members of Saturna's
9 legal and compliance team; compliance issues (to the extent Mr. Stroh is allowed to present
10 such evidence); and Mr. Stroh's resignation from Saturna.

11 **7. Monem Salam** may testify live. Mr. Salam is the President and Executive
12 Director of Saturna Sendarian Berhad (SSB). The general nature of his testimony will be
13 Saturna and SSB's history and operations; compliance issues (to the extent Mr. Stroh is
14 allowed to present such evidence); and Mr. Stroh's work at Saturna.

15 **8. Dennis Murphy** may testify live. Mr. Murphy is the Non-Executive Director of
16 Saturna. The general nature of his testimony will be Saturna's history and general operations;
17 Mr. Stroh's work at Saturna; Saturna management's interactions with Mr. Stroh and other
18 members of Saturna's legal and compliance team; and compliance issues (to the extent Mr.
19 Stroh is allowed to present such evidence).

20 **9. Jeffrey P. Fairchild** will testify live. Mr. Fairchild is an attorney at Adelstein,
21 Sharpe, & Serka, LLP. The general nature of his testimony will be Mr. Stroh's resignation
22 from Saturna.

23 **10. Ken Cain** may testify by deposition. The general nature of his testimony will be
24 Mr. Stroh's work at Saturna; and Saturna management's interactions with Mr. Cain, Mr. Stroh,
25 and other members of Saturna's legal and compliance team. Saturna designates the following
26 excerpts of Mr. Cain's videotaped deposition: page 46, lines 1 through 9; page 49 line 4
27

1 through page 50 line 4; page 53 lines 6 through 15, and page 65 line 22 through page 79 line
2 24. These are included in Addendum A.

3 A copy of the transcript shows in red highlighting the sections that Defendant intends to
4 offer at trial. Plaintiff has not offered any objections to these sections. The red highlighted
5 transcript of Ken Cain's video testimony is in attached Addendum A.

6 **11. Norman Yee** will testify live. Mr. Yee is the Vice President and Chief Operating
7 Officer of Celerity Consulting Group. The general nature of his testimony will be Saturna's
8 investigation into the hard drive of Mr. Stroh's Saturna computer after Mr. Stroh's resignation.

9 **12. Gordon Scott Stroh** will testify live. The general nature of his testimony will be
10 Mr. Stroh's work at Saturna; Saturna management's interactions with Mr. Stroh and other
11 members of Saturna's legal and compliance team; Mr. Stroh's resignation from Saturna; the
12 matters on which Saturna's after-acquired evidence defense is based; and Mr. Stroh's failure to
13 avoid or mitigate his damages.

14 Saturna reserves the right to call any witnesses identified by Mr. Stroh.

15 **B. Expert Witnesses**

16 **1. Robert A. Wagner**
17 MWL Advisory, LLC
18 901 Fifth Avenue, Suite 3320
19 Seattle, WA 98164

20 Mr. Wagner will testify live. The general nature of his testimony will be the flaws and
21 problems with the expert opinions of Plaintiff's expert Mark Newton, and compensation
22 damages, as outlined in his expert reports.

23 **2. Sara J. Andres**
24 10044 NE 130th Lane, No. 2
25 Kirkland, WA 98034

26 Ms. Andres may testify live in the event that Defendants' motion to exclude the
27 testimony of Plaintiff's expert, Mary Curran, is denied and Ms. Curran is permitted to testify.
The general nature of Ms. Andres' testimony in that event will be the flaws and problems with

1 the expert opinions of Plaintiff's expert Mary Curran, and compliance related matters, as
2 outlined in her expert reports.

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4 **Plaintiffs' Exhibits**

5 Please see Addendum B for a list of Plaintiff's exhibits, Defendants' objections and
6 Plaintiff's responses. Plaintiff will present exhibits in electronic format to jurors.

7 **Defendant's Exhibits**

8 Please see Addendum C for a list of Defendants' exhibits with Plaintiff's objections.
9 Defendants intend to present exhibits in electronic format.

10 **The Parties' Reservation of Rights**

11 1. The parties reserve the right to supplement their exhibit lists in the event further
12 discovery or expert witness testimony is received. The parties also reserve the right to add any
13 exhibit not already listed that is included in any expert witness report or disclosure.

14 2. The parties reserve the right to supplement their exhibit lists as additional
15 exhibits are identified in final preparations in accordance with the applicable local rules and
16 orders of this Court.

17 3. The parties reserve the right to split any exhibit identified into multiple exhibits.

18 4. The parties reserve the right to offer any exhibit identified by the opposing
19 party.

20 5. The parties reserve the right to withdraw or not offer any exhibit identified in
21 Addendum A or B referenced above; inclusion of any exhibit above is not a waiver of any
22 objection to the admissibility of such exhibit.

23 7. The parties reserve the right to call any witness identified by the opposing party.

24 Respectfully submitted,

25 DATED: June 2, 2017
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27

1 LANE POWELL PC

2
3 s/ Christopher B. Wells

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5 Claire L. Davis, WSBA No. 39812
6 Attorneys for Plaintiff Gordon Scott Stroh

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14 s/ Jeffrey B. Coopersmith

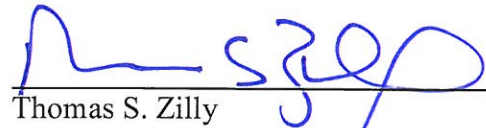
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ORDER

IT IS SO ORDERED

DATED this 8th day of June, 2017.


Thomas S. Zilly
United States District Judge